



## UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION I

5 POST OFFICE SQUARE, SUITE 100  
BOSTON, MASSACHUSETTS 02109-3912**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

MAR 21 2013

Intercontinental Real Estate Corporation  
c/o Scott Kelly, Regional Director  
1270 Soldiers Field Road  
Boston, Massachusetts 02135-1003

Re: PCB Cleanup and Disposal Approval under 40 CFR §§ 761.61(a) and (c)  
and § 761.79(h)  
Intercontinental Real Estate Corporation – Commercial Office Building  
130 Bishop Allen Drive  
Cambridge, Massachusetts

Dear Mr. Kelly:

This is in response to the Intercontinental Real Estate Corporation (IREC) Notification<sup>1</sup> for approval of a proposed plan to address PCB contamination at a commercial office building located at 130 Bishop Allen Drive in Cambridge, Massachusetts (the Site). PCB-contaminated materials that exceed the allowable PCB levels under 40 CFR § 761.20(a), § 761.61, and § 761.62 have been identified along window and door systems on the building. Specifically, PCB concentrations at greater than or equal to ( $\geq$ ) 50 parts per million (ppm) have been found in the caulk located along the metal window and door frames.

IREC has requested an approval under 40 CFR §§ 761.61(a) and (c) and § 761.79(h) that includes the following activities:

- Remove and dispose of all *PCB bulk product waste* (i.e., caulk and associated window and aluminum doors frames) in a TSCA-approved or RCRA hazardous waste landfill in accordance with § 761.62(a);

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<sup>1</sup> Information was prepared and submitted by Lightship Engineering on behalf of IREC to satisfy the notification requirement under 40 CFR §§ 761.61(a)(3) and (c) and § 761.79(h). Information was submitted dated September 19, 2012 (Self-Implementation Plan Removal of PCB Containing Caulk (SIP)); October 2, 2012 (Risk-Based Approach Removal of PCB Containing Caulk); February 25, 2013 (Risk-Based Approach Plan Removal of PCB Containing Caulk, Pilot Test Results, and Response to EPA Comments); March 12, 2013 (email response to EPA comments); and, March 19, 2013 (email response to EPA comments). These submittals shall be referred to as the "Notification".

- Decontaminate *non-porous surfaces* (i.e., steel window and door frames) to less than or equal to ( $\leq$ ) 10  $\mu\text{g}/100\text{ cm}^2$ ;
- Decontaminate *porous surfaces* (i.e., concrete and brick) to achieve a PCB cleanup standard of  $\leq 0.5\text{ ppm}$ ; or alternatively, encapsulate these surfaces if the PCB cleanup standard cannot be achieved; and,
- Conduct verification sampling on *porous* and *non-porous surfaces* to confirm that the PCB cleanup standards have been met.

With the exception of the proposed verification sampling, the Notification meets the requirements and standards established under §§ 761.61(a), 761.62, and 761.79 for cleanup and disposal of *PCB remediation waste* and *PCB bulk product waste*. EPA has determined that the sampling plan and verification sampling frequency for the *porous surfaces* and *non-porous surfaces* are adequate to confirm that PCB cleanup standards have been met. EPA finds that the alternative sampling frequency proposed by IREC will not create an unreasonable risk to public health or the environment and EPA may approve the alternative sampling under § 761.61(c).

IREC is also proposing a contingency plan for *porous surfaces* in the event that the required PCB cleanup standard cannot be achieved. The contingency plan includes encapsulation of the PCB-contaminated porous surfaces and installation of the new window or door over the encapsulated surfaces. Based on the information provided by IREC, EPA has determined that encapsulation of the building *porous surfaces* will not create an unreasonable risk to public health or the environment provided the coatings/barriers are maintained. EPA may allow the encapsulation under § 761.61(c).

IREC may proceed with its project in accordance with 40 CFR §§ 761.61(a) and (c); § 761.62(a); § 761.79(h); its Notification; and, this Approval, subject to the conditions of Attachment 1. Please be aware that this Approval requires IREC to notify EPA if any PCB verification sampling result exceeds the PCB cleanup standard. Under this Approval, EPA reserves its rights to require additional sampling or mitigation in the event EPA determines that the alternative sampling and/or proposed remedial activities could present an unreasonable risk to public health or the environment.

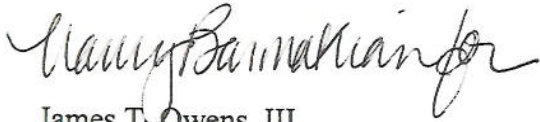
Questions and correspondence regarding this Approval should be directed to:

Kimberly N. Tisa, PCB Coordinator (OSRR07-2)  
United States Environmental Protection Agency  
5 Post Office Square, Suite 100  
Boston, Massachusetts 02109-3912  
Telephone: (617) 918-1527  
Facsimile: (617) 918-0527



EPA shall not consider this project complete until it has received all submittals required under this Approval. Please be aware that upon EPA receipt and review of the submittals, EPA may request any additional information necessary to establish that the work has been completed in accordance with 40 CFR Part 761, the Notification, and this Approval.

Sincerely,



James T. Owens, III  
Director, Office of Site Remediation & Restoration

cc B. LaPierre, Lightship Engineering  
MassDEP, Boston  
File

Attachment 1: Approval Conditions

**ATTACHMENT 1:**

**PCB CLEANUP AND DISPOSAL APPROVAL CONDITIONS  
INTERCONTINENTAL REAL ESTATE CORPORATION  
COMMERCIAL OFFICE BUILDING  
130 BISHOP ALLEN DRIVE  
CAMBRIDGE, MASSACHUSETTS**

**GENERAL CONDITIONS**

1. This Approval is granted under the authority of Section 6(e) of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2605(e), and the PCB regulations at 40 CFR Part 761, and applies solely to the *PCB bulk product waste* and the *PCB remediation waste* located at the Site and identified in the Notification.<sup>1</sup>
2. Intercontinental Real Estate Corporation (IREC) shall conduct on-site activities in accordance with the conditions of this Approval and with the Notification.
3. In the event that the plan described in the Notification differs from the conditions specified in this Approval, the conditions of this Approval shall govern.
4. The terms and abbreviations used herein shall have the meanings as defined in 40 CFR § 761.3 unless otherwise defined within this Approval.
5. IREC must comply with all applicable federal, state and local regulations in the storage, handling, and disposal of all PCB wastes, including PCBs, PCB Items and decontamination wastes generated under this Approval. In the event of a new spill during response actions, IREC shall contact EPA within 24 hours for direction on PCB cleanup and sampling requirements.
6. IREC is responsible for the actions of all officers, employees, agents, contractors, subcontractors, and others who are involved in activities conducted under this Approval. If at any time IREC has or receives information indicating that IREC or any other person has failed, or may have failed, to comply with any provision of this Approval, it must report the information to EPA in writing within 24 hours of having or receiving the information.

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<sup>1</sup> Information was prepared and submitted by Lightship Engineering on behalf of IREC to satisfy the notification requirement under 40 CFR §§ 761.61(a)(3) and (c) and § 761.79(h). Information was submitted dated September 19, 2012 (Self-Implementation Plan Removal of PCB Containing Caulk (SIP)); October 2, 2012 (Risk-Based Approach Removal of PCB Containing Caulk); February 25, 2013 (Risk-Based Approach Plan Removal of PCB Containing Caulk, Pilot Test Results, and Response to EPA Comments); March 12, 2013 (email response to EPA comments); and, March 19, 2013 (email response to EPA comments). These submittals shall be referred to as the "Notification".



7. This Approval does not constitute a determination by EPA that the transporters or disposal facilities selected by IREC are authorized to conduct the activities set forth in the Notification. IREC is responsible for ensuring that its selected transporters and disposal facilities are authorized to conduct these activities in accordance with all applicable federal, state and local statutes and regulations.
8. This Approval does not: 1) waive or compromise EPA's enforcement and regulatory authority; 2) release IREC from compliance with any applicable requirements of federal, state or local law; or 3) release IREC from liability for, or otherwise resolve, any violations of federal, state or local law.
9. Failure to comply with the Approval conditions specified herein shall constitute a violation of the requirement in § 761.50(a) to store or dispose of PCB waste in accordance with 40 CFR Part 761 Subpart D.

#### **NOTIFICATION AND CERTIFICATION CONDITIONS**

10. This Approval may be revoked if the EPA does not receive written notification from IREC of its acceptance of the conditions of this Approval within 10 business days of receipt.
11. IREC shall notify EPA in writing of the scheduled date of commencement of on-site activities at least one (1) business day prior to conducting any work under this Approval.
12. IREC shall submit the following information for EPA review and/or approval:
  - a. a certification signed by its selected abatement/demolition contractor, stating that the contractor(s) has read and understands the Notification, and agrees to abide by the conditions specified in this Approval;
  - b. a contractor work plan, prepared and submitted by the selected abatement contractor(s) describing the containment and air monitoring that will be employed during abatement activities. This work plan should also include information on how and where wastes will be stored and disposed of, and on how field equipment will be decontaminated; and,
  - c. a certification signed by the selected analytical laboratory, stating that the laboratory has read and understands the extraction and analytical method requirements and quality assurance requirements specified in the Notification and in this Approval.

## **DECONTAMINATION AND DISPOSAL CONDITIONS**

13. To the maximum extent practical, engineering controls, such as barriers, and removal techniques, such as the use of HEPA ventilated tools, shall be utilized during removal processes. In addition, to the maximum extent possible, disposable equipment and materials, including PPE, will be used to reduce the amount of decontamination necessary.
14. PCB-contaminated materials shall be decontaminated and confirmatory sampling and analysis shall be conducted to confirm that the unrestricted use cleanup standards as specified under § 761.61(a) have been met, as described below:
  - a. All visible residues of PCB-contaminated caulk (i.e. *PCB bulk product waste*) shall be removed as described in the Notification.
  - b. The PCB decontamination standard for *porous surfaces* (i.e., concrete and brick) shall be less than or equal to ( $\leq$ ) 0.5 part per million (ppm) as specified in the Notification.
    - i) All post-decontamination verification sampling of *porous surfaces* shall be performed on a bulk basis (e.g. mg/Kg). Samples shall be conducted in accordance with the EPA Region 1 *Standard Operating Procedure for Sampling Porous Surfaces for Polychlorinated Biphenyls (PCBs) Revision 4, May 5, 2011*, at a maximum sampling depth interval of 0.5 inches.
    - ii) Chemical extraction for PCBs shall be conducted using Methods 3500B/3540C of SW-846; and, chemical analysis for PCBs shall be conducted using Method 8082 of SW-846, unless another extraction/analytical method(s) is validated according to Subpart Q.
    - iii) In the event **any** verification sample is  $> 0.5$  ppm, IREC shall contact EPA to determine what modifications, if any, need to be made to the sampling plan or frequency or to the abatement plan to confirm that the PCB cleanup standard for unrestricted use as specified under § 761.61(a) has been achieved.
    - iv) In the event the *porous surfaces* cannot be decontaminated to achieve an unrestricted use PCB cleanup standard, the encapsulation alternative, as described in the Notification shall be implemented. If this alternative is implemented, IREC will be required to establish a long-term monitoring and maintenance plan (MMP) and a deed restriction for the encapsulated *porous surfaces* (Conditions 16 and 22, respectively).



- c. The decontamination requirement for *non-porous surfaces* (i.e., steel window and door frames) shall be as follows:
  - i) The decontamination wipe standard for *non-porous surfaces* shall be less than or equal to ( $\leq$ )  $10 \mu\text{g}/100 \text{ cm}^2$ .
  - ii) Chemical extraction for PCBs shall be conducted using Methods 3500B/3540C of SW-846; and, chemical analysis for PCBs shall be conducted using Method 8082 of SW-846, unless another extraction/analytical method(s) is validated according to Subpart Q.
  - iii) All post-decontamination sampling of *non-porous surfaces* shall be performed on a surface area basis by the standard wipe test as specified in 40 CFR § 761.123 (i.e.  $\mu\text{g}/100 \text{ cm}^2$ ).
  - iv) For decontaminated *non-porous surfaces* that have PCB concentrations exceeding the decontamination standard, IREC may conduct additional decontamination to achieve the required decontamination standard or must store and dispose of these materials as TSCA-regulated waste in accordance with 40 CFR Part 761.
- 15. PCB waste (at any concentration) generated as a result of the activities described in the Notification, excluding any decontaminated materials, shall be marked in accordance with 40 CFR §§ 761.40 and 761.45; stored in a manner consistent with 40 CFR § 761.65; and, disposed of in accordance with 40 CFR § 761.61 or § 761.62, unless otherwise specified below.
  - a. Decontamination wastes and residues shall be disposed of in accordance with 40 CFR § 761.79(g)(6).
  - b. Moveable equipment, tools, and sampling equipment shall be decontaminated in accordance with either 40 CFR § 761.79(b)(3)(i)(A), § 761.79(b)(3)(ii)(A), or § 761.79(c)(2).
  - c. PCB-contaminated water generated during decontamination shall be decontaminated in accordance with 40 CFR § 761.79(b)(1) or disposed of under § 761.60.

16. In the event that the *porous surfaces* cannot be decontaminated for unrestricted use in accordance with Condition 14, and the encapsulation option must be used, within 30 days of implementing this option, IREC shall submit for EPA's review and approval, a detailed MMP for the encapsulated surfaces. IREC shall incorporate any changes to the MMP required by EPA. A copy of the MMP shall be attached to the deed restriction (see Attachment 1, Condition 22).
- a. The MMP shall include: a description of the activities that will be conducted, including inspection criteria, frequency, and routine maintenance activities; sampling protocols and frequency, and analytical criteria; and, reporting requirements, as applicable.
  - b. The MMP shall include a communications component which details how the maintenance and monitoring results will be communicated to the Site users, including other on-site workers and other interested stakeholders.
  - c. The MMP shall include a worker training component for maintenance workers or for any person that will be conducting work that could impact the encapsulated PCB-contaminated *porous surfaces*.
  - d. IREC shall submit the results of these activities to EPA. Based on its review of the results, EPA may determine that modification to the MMP is necessary in order to monitor and/or evaluate the long-term effectiveness of the barriers.
  - e. Activities required under the MMP shall be conducted until such time that EPA determines, in writing, that such activities are no longer necessary.
  - f. The requirements under Condition 16 **shall not** apply if the PCB cleanup standard for unrestricted use for *porous surfaces* is met as specified in Condition 14.

#### **INSPECTION, MODIFICATION AND REVOCATION CONDITIONS**

17. IREC shall allow any authorized representative of the Administrator of the EPA to inspect the Site and to inspect records and take samples as may be necessary to determine compliance with the PCB regulations and this Approval. Any refusal by IREC to allow such an inspection (as authorized by Section 11 of TSCA) shall be grounds for revocation of this Approval.
18. Any proposed modification(s) in the plan, specifications, or information in the Notification must be submitted to EPA no less than 14 calendar days prior to the proposed implementation of the change. Such proposed modifications will be subject to the procedures of 40 CFR § 761.61(a)(3)(ii).



19. Any departure from the conditions of this Approval without prior, written authorization from the EPA may result in the revocation, suspension and/or modification of the Approval, in addition to any other legal or equitable relief or remedy the EPA may choose to pursue.
20. Any misrepresentation or omission of any material fact in the Notification or in any records or reports may result in the EPA's revocation, suspension and/or modification of the Approval, in addition to any other legal or equitable relief or remedy the EPA may choose to pursue.
21. Approval for these activities may be revoked, modified or otherwise altered: if EPA finds a violation of the conditions of this Approval or of 40 CFR Part 761, including EPA's PCB Spill Cleanup Policy, or other applicable rules and regulations; if EPA finds that these activities present an unreasonable risk to public health or the environment; if EPA finds that there is migration of PCBs from the Site; or if EPA finds that changes are necessary to comply with new rules, standards, or guidance for such approvals. IREC may apply for appropriate modifications in the event new rules, standards, or guidance comes into effect.

#### **DEED RESTRICTION AND USE CONDITIONS**

22. In the event that the *porous surfaces* cannot be decontaminated as specified under Condition 14 and the encapsulation option is implemented, within 45 days of completing the activities described in the Notification and authorized in the Approval, IREC shall submit for EPA review and approval, a draft deed restriction for the Site. The deed restriction shall include: a description of the extent and levels of contamination at the Site following abatement; a description of the actions taken at the Site; a description of any use restrictions for the Site; and, the long-term monitoring and maintenance requirements on the Site, which may be addressed in the MMP (see Attachment 1, Condition 16). Within seven (7) days of receipt of EPA's approval of the draft deed restriction, IREC shall record the deed restriction and shall submit a copy of the recorded deed restriction to EPA. A copy of this Approval and the MMP shall be attached to the deed restriction.
23. IREC shall notify the EPA of the sale, lease or transfer of any portion of the Site, in writing, no later than thirty (30) days prior to such action. This notification shall include the name, address, and telephone number of the new owner(s). In the event that IREC sells, leases or transfers any portion of the Site, IREC shall continue to be bound by all the terms and conditions of this Approval, unless EPA allocates some or all of this Approval's responsibilities to the new owner through the issuance of a new approval. The procedures for the issuance of a new approval ("re-issued approval") are as follows:
  - a. The new owner(s), lessee or transfer entity must request, in writing, that the EPA issue a new approval to the new owner(s), lessee or transfer entity which transfers some or all responsibilities to comply with the terms and conditions of this Approval to that entity or entities;



- b. The EPA reviews the request, and determines whether to issue a new approval; and,
  - c. The new owner(s), lessee or transfer entity provides written notification to the EPA of its acceptance of and intention to comply with the terms and conditions of the re-issued approval. The re-issued approval may be withdrawn if the EPA does not receive written notification from the new owner(s), lessee or transfer entity of its acceptance of, and intention to comply with, the terms and conditions of the re-issued approval within thirty (30) days of the date of the re-issued approval. Under such circumstances, all terms and conditions of this Approval will continue to be binding on IREC.
24. In the event that the sale, lease or transfer of the Site will involve or result in a change in the use of the Site, EPA may revoke, suspend, and/or modify this Approval or the re-issued approval if it finds, due to the change in use, that the encapsulation will not be protective of health or the environment. The new owner shall record any amendment to the deed restriction, resulting from any approved modification(s), within sixty (60) days of such change(s).
25. In any sale, lease or transfer of the Site, IREC shall retain sufficient access rights to enable it to continue to meet its obligations under this Approval for maintenance and monitoring of the encapsulated *porous surfaces*, except as provided above.
26. The conditions specified under Conditions 22 through 25 **shall not** apply if the PCB cleanup standard for unrestricted use for *porous surfaces* is met as specified in Condition 14.

#### **RECORDKEEPING AND REPORTING CONDITIONS**

27. IREC shall prepare and maintain all records and documents required by 40 CFR Part 761, including but not limited to the records required under Subparts J and K. A written record of the cleanup and disposal and the analytical sampling shall be established and maintained by IREC in one centralized location, until such time as EPA approves in writing a request for an alternative disposition of such records. All records shall be made available for inspection to authorized representatives of EPA.
28. IREC shall submit a final report in both hard and electronic copy, to the EPA within 60 days of completion of the activities authorized under this Approval. At a minimum, this final report shall include: a short narrative of the project activities; characterization and verification sampling analytical results; copies of the accompanying analytical chains of custody; field and laboratory quality control/quality assurance checks; an estimate of the quantity of PCB waste disposed of; copies of manifests and bills of lading; copies of certificates of disposal or similar certifications issued by the disposer; and a copy of the deed restriction.



29. As required under Condition 22 of this Approval, IREC shall submit documentation that it has recorded the deed restriction on the Site.
30. As required under Condition 16 of this Approval, IREC shall submit the results of the long-term monitoring and maintenance activities to EPA as specified in the final MMP to be approved by EPA, if applicable.
31. Required submittals shall be mailed to:  
  
Kimberly N. Tisa, PCB Coordinator  
United States Environmental Protection Agency  
5 Post Office Square, Suite 100 – (OSRR07-2)  
Boston, Massachusetts 02109-3912  
Telephone: (617) 918-1527  
Facsimile: (617) 918-0527
32. No record, report or communication required under this Approval shall qualify as a self-audit or voluntary disclosure under EPA audit, self-disclosure or penalty policies.

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**END OF ATTACHMENT 1**

